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Hegemon : tracing power through bodies of law

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Abstract

'I once had a conversation with a high-ranking member of the CPUSA ... who said that gay people should stay in the closet because it sets a bad example for the 'working class'.'

US gay activist, in conversation:

'The NSW-based Gay and Lesbian Rights Lobby recently knocked back a push by bisexuals and transsexuals to be accepted as part of its overall charter for lobbying ... Those who resisted most strongly were AIDS Council of NSW (ACON) president Peter Grogan, former Mardi Gras president Richard Cobden, gay NSW parliamentary member Paul O'Grady and interim head of the Australian Council for Lesbian and Gay Rights, Carole Ruthchild ... Those against the inclusion ... said that bisexuals could have lovers of the same sex but still resort to the 'safety' net of a heterosexual lifestyle ... The Gay and Lesbian Rights Lobby had earlier expelled Norrie May Welby under the premise that May Welby's constant 'queer' arguments in committee meetings had delayed work on important rights issues.' Campaign 207/June '93

HEGEMON: TRACING POWER THROUGH BODIES OF LAW

Michael Dobber

‘I once had a conversation with a high-ranking member of the CPUSA ... who said that gay people should stay in the closet because it sets a bad example for the ‘working class’.’

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Campaign 207/June ‘93

[T]he transvestite ... and even more the transsexual, seem the ultimate victim of ... stigma ... so conditioned into the male/female role dichotomy that the only way they can accept their own homosexuality is by denying their bodies ... My personal belief (hope?) is that transvestism and transsexism would disappear were our social norms not so repressive of men who exhibit ‘feminine’ traits and vice versa.’

Dennis Altman, *Homosexual Oppression*

‘Each oppressed group tends to wear its oppression like a

badge of honor, of proof that 'we are more oppressed than anyone else,' with the implication that this somehow makes us better than anyone else ... [N]o one has a monopoly on pain, anguish, and human suffering ...'

Dajenya, 'Sisterhood crosses gender preference lines'

POSTMODERN NARRATIVE/POSTMODERN CONSCIOUSNESS - AN INTRODUCTION

Japanese American Mari Matsuda, in a keynote address to a Yale Law School Conference on Women of Color and the Law, set forth women of colour as a 'paradigm group' for the use of what she terms 'multiple consciousness as jurisprudential method' (Matsuda 1989: 7-10). She argues that women of colour, as outsiders, have developed a unique mode of oppositional political praxis which enables them to at once operate within existing institutional expressions of male/white/het power, including traditional legal discourse, and also to operate outside this epistemic and political space, confronting these institutions through the expression of their direct experience of power from their position on the 'outside'. So summarised, tensions are clear. To what extent is it actually possible to at once move within heteropatriarchal/white discursive space, and to articulate experiences of oppression? Is the outsiders' experience of power, and inter alia, the law, translatable to the Master's tongue? Or may we, in claiming to navigate at once both 'public' and 'private', 'inside' and 'outside' epistemic space, thereby reinscribe the texts which route currents of power? (Texts which, as we shall observe, are written 'on' our bodies).

It should be noted that Matsuda is not advocating a traditional liberal model here – she argues that 'outsiders, including feminists and people of colour, have embraced legalism as a tool of necessity, making legal consciousness their own in order to attack injustice' (Matsuda 1989: 8), but also that (what in keeping with her terminology we may term) 'outsider consciousness' must be maintained alongside this.

[T]o the feminist lawyer faced with pregnant teenagers seeking abortions it would be absurd to reject the use of an elitist legal system, or the use of the concept of rights, when such use is necessary to meet the immediate needs of her client. There are times to stand outside the courtroom door and say 'this procedure is a farce, this legal system is corrupt, justice will never prevail in this land as long as privilege rules in the courtroom.' There are times to stand inside the courtroom and say 'this is a nation of laws, laws recognising fundamental values of rights, equality and personhood.' (Matsuda 1989: 8)

An important question, and one Matsuda frankly acknowledges, is how to determine which location is appropriate in which instance. But there are further difficulties. She urges lawyers to make a deliberate choice to see the world from the standpoint of the most oppressed. This position is reminiscent of that adopted by feminist theorist Sandra Harding:

The logic of the standpoint epistemologies depends on the understanding that the 'master's position' in any set of dominating social relations tends to produce distorted visions of the real regularities and underlying causal tendencies in social relations ... The feminist standpoint epistemologies argue that because men are in the master's position vis-a-vis women, women's social experience — conceptualised through the lenses of feminist theory — can provide the grounds for a less distorted understanding of the world around us. (Harding 1986: 191)

Matsuda considers that these outsider perspectives '[are] accessible to all of us' (Matsuda 1989: 9). But is this true? How different is this request from that of the modernist liberal philosopher who asks of us that we 'walk a mile in the other man's shoes'?¹

I here hope to address two primary questions which the advent of a heavily postmodern-influenced narrative/oppositional jurisprudence has raised, in the specific context of the articulation of the concept dyads het-homo and male-female—in contemporary jurisprudential and political discursive practice, and to conduct an interrogation of 'identity politics' by means of a Foucault-style mapping of the flows of power that these discursive formations promote and enact.

Firstly, is it in fact possible to articulate an oppositional political discourse while operating (even only intermittently) within established heteropatriarchal/white power systems? Can we both speak Others' truths and utilise the abstractions of standard master discourses?

Secondly, what political action does a broadly-speaking Matsudian approach to the law (one which sets out to privilege the radically situated voice) potentiate? What options are open to us as outsiders operating within the legal institution? What tools are available other than the Masters'?

I here, then, seek both to carry out the Matsudian project of oppositional storytelling — in her words, the adoption of '[t]he reality and detail of oppression [as] a starting point' — and at the same time to use such stories to critique certain strains of postmodern-sponsored 'narrative jurisprudence', as advocated in the cases of race, by Delgado (1989, 1990a, 1990b), of colour and women, by Matsuda (1989), and of sexuality, by Fajer (1992).

I then examine the consequences of such a critique for non-het political

praxis; and explore the possibilities afforded us by a Deleuze/Guattarian theorisation of postmodern power.

THE LAW IN A DIFFERENT VOICE -

Narrative jurisprudence and the politics of identity

An epistemological schemata predicated in thingedness, beloved of the Greeks, and a constant of Western thought, is floundering. As horrific as Plato, as Aristotle, as Pope John Paul II may respectively consider it, Truth is setting in the West. The laws of God, of Science, of Reason, of Nature, are being usurped. In the language of Lyotard, critic of the post-modern, depth is being exchanged for surface. Our epistemological universe is less and less one of length, width and depth, and increasingly one of planes. We may no longer dig deep to uncover sparkling diamonds, nor reach high to pluck the fruits of knowledge of good and evil. Now, we think through perspectives, our visions are situated on an epistemic and a political landscape, each of our utterances per force reflect the particular gradient of our selves' particular grassy knolls. Or perhaps we speak from nodes, where multiple perspectives intersect. If this is so, we farewell the unitary conception of the self, the supermaterial soul, which underlies and orders perception; and we become fundamentally divided. The 'I' can no longer claim even the trivial dignity of being a 'bundle of perceptions'. Multiple 'I's continually arise and fade, each adding their whine to the chorus/discord of chattering voices. The state of Nature is very grave indeed. What does a radical postmodern epistemology and metaphysics leave of the Self? What are the implications of a putative postmodern construction of Self, of I, for radical politics? And where is gender, sexual orientation, desire, in such a world?

More specifically, if somewhat less grandly, where, after such a cataclysm, stands the law? Yesterday, along with God, the Author died (q.v. Barthes). It is mute testimony to the inherently conservative nature of the law as institution that it considers itself to remain unchanged; indeed, it seems barely to perceive that r/Revolution has occurred. Postmodern theory has sought to undermine traditional epistemology by tracing the currents of power we may map and channel in language. Traditional conceptions of the law such as are taught in law schools reflect a Platonic epistemology. The Common Law is a Platonic Form which actual ratios as instantiations supposedly more or less approximate. The task of the lawyer is to sift the ratio from the obiter, to weight the various authorities, and *re* construct the ideal image of what the Law is. The work of lawyers is quintessentially, then, language work. The postmodern account of truth has had devastating effects on literary criticism; its consequences for the practice of the law should be

no less spectacular.

New modes of what could once be broadly labelled 'left' theory are being articulated within the postmodern moment. The narrative jurisprudence of Delgado (1989), for example, favours the telling of stories by outgroups; or more precisely, the telling of 'counterstories', which challenge the thinking of the law (which inevitably reflects the perceptions and theoretical constructions of the dominant group(s)). A postmodern epistemology can operate to legitimate this political practice/jurisprudential methodology. If the idea of a determinate, discoverable Law is discarded in favour of local truth and 'guilty language' (ie. the truth that language is not innocent with respect to power), counterstories are authorised, and can become 'real law'; and argument based on counterstories must be entertained as a legitimate source of law, both by the courts, and more broadly, by the legal academy.

There are problems which such a narrative jurisprudence has yet to resolve, however. Storytelling as jurisprudential method, and multiple consciousness as a conceptualisation of the analytical mode such a method might entail, begs the vital question of which are the legitimate Others. It is often implicitly assumed in such writing that there is some consensus regarding the identity of the radically situated. In reality and stark contrast however, oppositional discourses are themselves replete with systems for domaining discourse and silencing voices. Who is a Real Other, who can tell the Real counterstories, is a serious theoretical problem and the site of much political conflict, as we shall see.

Further, there is the problem of 'behalfing'. While postmodernism may perhaps legitimate other voices, as bell hooks notes, 'as a discursive practice it is dominated primarily by the voices of white male intellectuals and/or academic elites who speak to and about one another with coded familiarity' (hooks 1990: 2). If the discourse which potentiates the authorisation of OtherSpeak is in fact inaccessible to (the bulk of) Others, this discourse is merely potentially transformative, and nothing more. And in fact, this discourse may serve ultimately to legitimate prevailing power hierarchies, and further may facilitate the colonisation of the experience of Others (for if all — including identity — is constructed, anyone can in principle speak truth about anything). We thus have an image of a (white dominated, male dominated) postmodernism which is fundamentally incestuous, self-referential, enclosed. Divorcing itself as it does from the spaces of the voices it supposedly legitimates, it becomes barren, self-perpetuating discourse which never sojourns beyond its own discursive practice. If it is so legitimating, why is it not producing other voices? Does a postmodern queery give rise to any new political praxis, or does it simply disable traditional reform-oriented ones and simultaneously operate to allow white males to speak for and/or silence (yet again) women, people of colour, etc?

This leads us further to the question of the role of the contemporary academic/intellectual, and to the much vexed question of the connection if any which pertains between theory and praxis; and to an analysis of postmodernism as social practice.

Lastly, there is the fear that the privileging of radically situated voices may lead to stereotyping which operates to oppress. (This is of course related to issues of the intelligibility and utility of 'identity', and to the political implications of the cultural mechanics of the production of identity as prediscursive).

I here wish to interrogate two illegal identities, the bisexual and the t*.² Both occupy an indeterminate intermediate middle ground, situated beyond or across the binary systems of gender and sexual orientation.³ These binaries I theorise as sign-systems ordering relations of power (they filter/channel/silence speech) and I analyse them from the perspective of both narrative jurisprudence/postmodern epistemology and the voices of bisexuals and t*s.

I also select certain texts, 'jurisprudential' and otherwise, and attempt to demonstrate how the language in terms of which the debates are framed and enacted serves to prelimit outcomes; further, how these lingual limitations are a function or a product of the conceptions we have of what is and what is not 'real' jurisprudence, or, more broadly, of the boundaries of 'the political'.

Of Kinsey surfers and the myth of Sexuality

A rhetorical/epistemological strategy termed 'identity politics' is presently enjoying currency in lesbian and gay discourse. Its efficacy is increasingly called into doubt as conservative politics formulates and refines counter-strategies. In the context of the present Tasmanian debate one of the presently most successful involves the portrayal of what lesbian and gay theorists would term lesbian and gay sexuality as a psychic disease, for which the individual must be both pitied and treated (counselled). No doubt lesbian and gay theory will develop new words in response. The question I wish to pose here concerns the constancy of the epistemological base of lesbian and gay politics.

I would argue that a revision of lesbian and gay theory from an explicitly postmodern epistemological perspective is necessary if a debate potentially infinite in length and ultimately of dubious utility between lesbian and gay and anti-lesbian and gay theory is to be transcended.

I would maintain further, that connections or commonalities between differently situated accounts of oppression may be more safely explored

from such an epistemological base, while modernist accounts of truth and power typically result in the relegation of the oppression of one group to the ignoble status of epiphenomenon of the oppression of another.

The Gay Science ('Don't tell me my personal is not political!')

Heterosexism is predicated upon a monosexual epistemology which posits discrete categories, and specifically, the hetero-homo dyad. This dyad may be deconstructed as symbiot – a self-perpetuating circuit of power which operates to dominate speech. On such a reading, the bisexual is not simply another Other. It is a free floating third term – the slippage, the fissure, the rupture in the Logos of orientation – which may perhaps facilitate Foucaultian resistance. I am suggesting that the figure of the bisexual may constitute point suitable for postmodern intervention into a gaystream master discourse of sex and sexuality.

We exist not simply in a state of 'compulsory heterosexuality'. We live in a state of compulsory sexuality. The question might be posed: can a bisexual have a sexuality?

Where is the closet? A staple of lesbian and gay discourse regarding sexuality, this epistemic location is overripe. The dichotomy of closet/out serves to police desire, to declare certain articulations (inter alia, identity-grounded ones) acceptable and to prevent or penalise alternative ones. The out gay is the gay who, for example, rejects his Christian faith, denouncing it as oppressive and denouncing the retention of a Christian identity by some gays as symptomatic of an 'internalised homophobia' (understood as the unconscious and uncritical internalisation of normative societal values, including the devaluation of sex, sexuality and especially same-sex sexuality – a type of false consciousness). The out lesbian is the lesbian who, say, never sleeps with, nor expresses attraction to or interest in, men. Etcetera. By positing a determinate Truth regarding desire, ie. a sexuality expressive of a core or a deep Self, truths are bounded.

The Kinsey Institute recently conducted a study showing that 46 percent of (self-labelled) lesbians reported having sex with men since 1980. Many of these men had had sex with other men. (Hutchins & Kaahumanu 1991: xxi)

Such speech silences radically situated voices, such as those of bisexuals. But further, such speech operates to inhibit the generation of identities capable of speaking these truths. Hence we reach the assertion that there is no such thing as an out bi. However, as Hutchins and Kaahumanu point out,

that 'one drop of homosexuality indicates latent homosexuality in a straight' theory sounds suspiciously like the 'one drop of black blood makes you black and you can't go to our schools' racist attitude in U.S. public schools last generation. (Hutchins & Kaahumanu 1991: 8)

Where is out? The process of 'coming out' is an intriguing one, from an epistemological perspective, as it embodies a number of (potentially contradictory, destabilising) alternate readings of queer identity, and more broadly, of the modern subject. The bisexual experience (if I may be permitted this term) is informative here. Many bis have experienced and can recount a definite point in their personal histories at which they came out to themselves; that is, a moment when they began to self-identify as bisexual. This point is somewhat different from the coming out experiences reported by those identifying as lesbian or gay.⁴ Since lesbian and gay discourse — in this respect, importantly, indistinguishable from the discourse of the hetstream — posits a determinate identity, a 'real' dimension or quality of the subject in which lesbian or gay identification is grounded — put simply, a 'sexuality' — there is no immediate need for lesbians or gays to problematise the epistemological status of their moment of identification. This moment may be described/read simply as the point of recognition of the reality of their situation (or, more dramatically, the point of liberation from false consciousness). A biography of same-sex attractions and experiences may be called upon to verify this identification. The bisexual, however, faces epistemological crisis when reaching the moment of coming out to herself. Coming from an either/or culture, a bi will initially identify as either lesbian/gay or het. In the absence of a public, clearly delineated community with a common language facilitating the demarcation of experience in accord with erotic attraction, it is difficult to interpret the decision to identify as bi as a decision to recognise something hitherto hidden deep within oneself. Rather, self-identification is often understood by bis to be a deliberate decision to choose a label, an identity, and to read our own biography (and future) *through* this identity. On coming out, our biography is reread/rewritten.

The development of bisexual identity ... involves redefining our sexual orientation in accordance with a decision to validate and give importance to previously disregarded, or undeveloped, or newly emerging sexual and affectional feelings and behaviour. Developing this identity ... first involves re-evaluating and discarding an existing self-definition in which we have developed a degree of investment. (Fox 1991: 31)

'Coming out' is then not to recognise and unveil a repressed, secret Self; it is to situate oneself within a series of meanings particular to heteropatriarchy. Only the determinate identity — in the language of Deleuze and Guattari, the arborescent queer — can 'come out'. The unembodied, the schizophrenic, the nomad, the rhizome, the unidentified, however, has no core truth to assert.

The situated out generates a situated liberation; even sometimes a physically situated one. Oxford Street is represented as a gay h(e)aven, and contrasted with redneck 'phobic Tasmania (recall for example the mid-1994 Buy Right Campaign — a blanket ban on Tasmanian goods made possible by the mainland lesbian and gay perception that the Tasmanian qua Tasmanian is homophobic, ie. location defines identity), or perhaps contrasted with the hick het Outback (witness for example the portrayal of the outback and its inhabitants in the recent Australian film *The Adventures of Priscilla Queen of the Desert*).

Note that, on such a reading of sexual identity, it is not possible to speak of 'gay sex' or 'lesbian sex' or 'het sex', any more than it makes sense to speak of 'bi sex'. All the first terms are sexualities, identities. Sex acts are not identities. Subjects are. But only subjects have sexualities. Bisexuals are not subjects (in so far as we and our claims are understood to be symptomatic of internalised oppression). Hence there is no bi sexuality. In this sense it may be said that bis and transgens both, are disembodied by master discourse.

The Lore of the Excluded Middle

I'm not gay. I like women as much as the next man.

The unreflected adoption of traditional models of political theory and praxis is always prone to lead us to simple transposition of the modes of oppression which we are attempting to evade. It is axiomatic of feminism that 'the master's tools will never dismantle the master's house' (Lorde 1984: 110). Lesbian/gay theory must be on its guard when seeking to renovate and appropriate accounts formulated under heteropatriarchy.

Discrimination in our lesbian and gay communities against those who self-identify as bisexual is the consequence of just such an error. The widespread silencing of bisexuals in and outside our communities is a direct product of the uncritical or insufficiently reflected importation of a heterosexist epistemological perspective; a perspective which operates to reinscribe the orientation and gender-ordered relations of power against which we protest so vigorously.

Rather than engage this 'essentialist' epistemology directly, I here present what are fairly typical commonsensical notions regarding bisexuals and bisexuality, and attempt to demonstrate how such narratives belie our reporting of our own experience, and are grounded in what is at essence a mainstream/'essentialist' construction of the subject, of identity, and which can only operate to marginalise and to mute perverse desire.

This attempt at bi storytelling I would set in contrast to Fajer's article 'Can Two Real Men Eat Quiche Together?' (1992). Despite a commitment expressed therein to inclusive storytelling, Fajer repeatedly marginalises and erases bi experience(s). He adopts at the outset a tripartite taxonomy of the queer universe composed of non-gay homophiles, closeted gays and out gays (Fajer 1992: 534-5) – telling us by way of parenthesis and footnote that 'gay' can sometimes mean 'lesbian',⁵ and that bisexuals experience oppression only in so far as they are gay (or lesbian), with the implication that any putative bi oppression is politically speaking identical to gay (or lesbian) oppression.⁶ Witness further, his (footnote) definition of 'true' bisexuality:

I mean, having sexual and affectional attractions for people of both genders as opposed to engaging in sexual intercourse with one or the other gender without any real attraction. (Fajer 1992: 549, footnote 187)

With reference to what criteria does one determine the 'realness' versus the artifactuality of an individual's attractions? Fajer reifies these categories of real and unreal, true and false, and in so doing sites the power to authorise speech squarely within lesbian and gay discursive space.

The myths I recount below seek to refute the naive view that bisexuals cannot experience discrimination as bisexuals, and that bis cannot experience this discrimination both at the hands of het and of lesbian and gay communities.

Bisexuals do not exist

Truths of this type operate to delegitimize any putative bisexual voice, that is the bisexual as authentic subject. If it can be demonstrated that the so-called 'bisexual' is actually something else, then everything the individual bi and the bi community might say about itself is suspect. These truths then illustrate the manner in which the postulation of a unitary, determinate gay, lesbian and/or homosexual identity serves to legitimate the colonisation of bisexuals' experience.

'Isn't everyone really bisexual?'

The power to author is the power to authorise. While the hetstream controls the language within which queer communities articulate and bound themselves, the hetstream can authorise certain practices and suppress others

(and the Others whom the practices define). The adoption of the label 'Queer' is one example of the appropriation of this power of authorship. Who determines what and who is 'bisexual' is for this reason of vital import.

To assert universal bisexuality is in effect, if paradoxically, to assert that there are no bisexuals. If anybody is capable of same-sex sex (which may appear initially plausible given the morphological congruency of people regardless of their differing erotic interests), it is pointless for any particular group to claim the label bisexuality for themselves and to speak about discrimination on this ground. There is no distinction to be made between any 'biphobia' and regular garden-variety 'homophobia'. Bisexuals become, in effect, just another (if a little confused) bunch of lesbians and gays.

The forgoing account of bisexual identity operates, then, to delete that identity. It is not a statement of 'the way things are', it is a rhetorical program evolved to marginalise the bisexual – who is convinced, despite monosexualist assertions to the contrary, that she/he does have a voice, as bi, and that this is qualitatively different from speaking as het, lesbian or gay.

'There is no such thing as bisexuality.'

A common belief is that any putative 'bi' sexuality is simply a transitional period between the closet and an authentic lesbian/gay identity; that those claiming to be bi are really lesbian or gay, but are, for whatever reason(s), too scared or insecure to admit it. A het version of this myth asserts the inverse, ie. that the bisexual is really het but for some reason seeks to experiment (with a further implication that this is in some way inappropriate or unhealthy, and the product of a confused or unbalanced personality). If it is generally agreed among a group of people that you are either confused about yourself, or scared and insecure, people are much less likely to take what you say at face value. Your opinions, written or spoken, and your choices, in your 'public' and your 'private' life, will all be assessed in the light of this pervasive and overarching condition of instability. You find yourself muted.

'Bisexuality is a cop out – these so-called 'bisexuals' can hide behind heterosexual privilege. 'Bisexuality' is simply (yet another) rationalisation for staying closeted and invisible. Bisexuals are fence-sitters. When it really counts, bis won't come through for their lesbian and gay sisters and brothers.'

This is a more refined and politically-charged amalgam of the previous two myths. Once more, the contention is that there is no authentic bi identity/voice/political situation, but rather that it is a politically unacceptable mechanism enabling sporadic sorties into the OutWorld, punctuated by desperate dives for closets when the intensity of oppression makes being out too dangerous. In not having the courage to come out once and for all and proclaim unreservedly their lesbian/gay selves, 'bis' are selling

out to heterosexist paradigms and are hence complicit in the continuing marginalisation and oppression of lesbian and gay people.

This argument would seem to stand or fall on whether one accepts the existence of an authentic both-gender sexual orientation. Although admittedly carrying quite some rhetorical force, this 'argument' of itself answers nothing. It leaves all the important questions unasked, and aids both speaker and audience in forgetting to ask them. *If* there were no people who harboured desire for people of both genders, *then* it might be the case that any claiming said desire were wimps and traitors. But there *are* individuals who claim to be attracted to both genders, and hence there is, *prima facie*, an authentic bisexual situation. Reasons remain to be evinced why these self-reports should be dismissed. That these reports are the product of a closeted perspective is a recursive argument. This rhetorical manoeuvre simply reaffirms those who deny a 'real' bi sexuality in their exclusive practice and discourse; and also, of course, it encourages bisexuals in both the het and the lesbian and gay communities to remain closeted, 'passing' as het or as lesbian or gay.

'True bisexuals are attracted equally to women and to men'.

'True bisexuals have concurrent partners of both genders.'

These assertions and others like them, rather than denying bi desire outright, establish a conditional definition so narrow that few will qualify. If one is not fucking both a man and a woman, in a publicly verifiable fashion, at the particular time the claim to a bi identity is made, one is really het/gay/lesbian and just confused or experimenting. Conversely, if one is in a monogamous relationship, or if one has only ever 'had sex' with persons of one gender, one cannot be bisexual. Such definitions can sometimes reach quite bizarre extremes. For example: if one sleeps with more men than women, or the reverse, one isn't really bisexual. If one comments in an erotic fashion more about men than women, one is not bisexual either. If one refuses any particular man or woman as sexual partner, one is supposed to be 'really' lesbian or het respectively if one is female, or the reverse respectively if one is male. More on such bounding of desire, later.

'Bisexuality cannot be a true orientation, because bisexuals choose their identity while lesbians and gays have always been lesbian or gay.'

The thinking woman's or man's anti-bi argument, it can command some initial plausibility through appropriating the contentious and divisive debate over the origin or aetiology of non-het desire (more commonly encountered in its manifestations as the 'nature' versus 'nurture' and the 'choice' versus 'orientation' debates). Of course, the genesis of same-sex orientation and same-sex sex acts is a moot point; indeed, the very language in which we frame the debate is the subject of continual and ongoing critique. Given the

stark lack of uniformity or consensus on these issues, it is simply not possible to make the assertion above; one must also address the tensions latent in such an account of 'orientation'. It is not at all clear, *prima facie*, that bisexuals are not 'born bisexual' – there would appear to be no reason, for example, why there may not be some genetic or pre-natal hormonal or other biological and/or environmental base underlying bisexuality. Nor is it clear that lesbians and gays are born lesbian and gay, at least in a straightforward sense – it is well accepted now that the whole language of sexual orientation and of homosexual identity has a quite specific historical and cultural genesis, and to argue that there is (say) a determinate genetic 'cause' of same-sex sex acts and identity would seem to stand in tension with such an historically situated account.

Bisexuals and relationships

These stories portray bisexuals as inherently unstable and untrustworthy. Even if some real bis do exist, everyone would be better off if they didn't.

'Bisexuals are promiscuous hypersexual hedonists, who have no moral values and will try anyone and anything anywhere at anytime.'

Interestingly, viewed as rhetorical tactic for the assignment of Other status, the above is a direct pilfer from main-/malestream discursive practice. The religious right (groups like Tas Alert and For A Caring Tasmania, for example), too, sees the Other as signifying and embodying all transgressive acts. The Other is of its essence perverse, and there is no valuable distinction to be made amongst its manifold manifestations. Heterosexist discourse typically fails to distinguish between same-sex sex, paedophilic practices, predatory sexual behaviour, genderfuck, Communism, and any number of other potentially threatening (immoral; destabilising) behaviours and self-identifications. Similarly, lesbian and gay discourse tends to attribute negatively-charged traits and practices to bisexuals; for example that they are chronic sufferers of wanderlust (and the emphasis is generally on the latter syllable) or of some variety of erotico-sexual psychopathology. The mechanism operating here is one familiar to feminist theory, namely, the sexualisation of the Other.

'Bisexuals cannot be monogamous.'

Clearly derivative of the 'concurrent lovers' construction of bi identity, typical variations include 'a bisexual will always leave you for a man' and 'I could take losing her to another woman, but how can I compete with a man? I just couldn't take that.' Some bisexual people do reject monogamous relationships, but so do some het and lesbian and gay people. There is no inevitable relationship between a bisexual identification and promiscuity.

'A monogamous married person or person in a long-term monogamous relationship cannot be bisexual.'

This again denies bisexual's self-reports, and rests on a misconception of the term 'orientation'. Bisexual identity does not (merely) signify an individual's present sexual arrangements, it is also a statement regarding erotic and affective interests and potentialities. To say that (for example) a monogamous married woman or man is not 'really' bisexual is analogous to saying that a celibate lesbian or gay is not 'really' lesbian or gay. Identity or sexual orientation is more than simply present sexual practice.

Threats of bisexuality

'Bisexuals transmit disease.'

The notion that the transgression of natural boundaries pollutes is of ancient lineage. As we are all too well aware, the advent of HIV/AIDS has been particularly fortuitous for those seeking to promote traditional heterosexist and patriarchal models of sexuality and relationship. Bisexuals, like the gay community, have suffered from a popular equating of counternormative sexual behaviour with Disease. There is a perception among many lesbians and gays, emulating the view of many hets vis-a-vis non-hets, that bis are disease-ridden. One female bi comments in exasperation that the bisexual woman is seen as 'the 'Typhoid Mary' of the lesbian community' (Krueger 1991: 280).

The reasoning here is that if everyone just fucks their own kind, HIV/AIDS will not be a problem. This is to deny the oft-emphasised fact that it is high-risk practices which spread the virus, and not sexual identities, nor sexual-orientation-delineated communities.

Heterosexism and microfascism

There are many different biographies which lead many different women and men to claim the label 'bisexual' for themselves. There is no unitary third 'orientation' 'bisexuality'; and although there certainly is a developing community, and hence an emerging 'bisexual voice', this is not to suggest that there is a determinate and demonstrably extant state (be this putative state described utilising the language of genetics, or of sociology, or of psychology, or any other discipline) which grounds this historical moment. It should after all be recalled that the language within which our politics of lesbian and gay and bisexual and queer identity is conceived and articulated, is the language of a heteropatriarchal culture. The advent of bisexuality in Western queer discourse can operate to challenge the epistemological framework which informs both 'het politics' and, consequently, presently, the oppositional politics (be it termed gay or queer, be it essentially assimilationist and reformist or radical and revolutionary in character) which

has arisen in response.

We cannot buy into prevailing modes of discourse without thereby compromising our radical situation. A recurrent dilemma in feminist jurisprudence is whether one can speak both as woman and as judge. I would argue that similarly there is a sense in which one cannot speak simultaneously as queer and as 'scientist'. (By 'scientist' I mean, the grounding of truth and falsehood in empirical, publicly accessible reality; as is assumed, for example, within the discursive domain of the biological sciences). Science, in its dual manifestations as knowledge construct and as social practice, can only and will always reinscribe oppression, constituting as it does a dominant form of discourse under heteropatriarchy. (To rephrase this in straight Marxist terminology, science is part of the ideological superstructure which maintains an economic culture which discriminates *inter alia* on grounds of signifiers of sexuality).

The particular manifestations of power, the relevant modes of oppression, vary widely from group to group. It is clear that male and female feminists, lesbians and gays, gays and t*, female bisexuals and lesbians, and so on, although all suffering under heteropatriarchy, suffer in unique ways, and will not always share political interests.

What is required is a recognition of the multivalency of language; that this culture which oppresses us, uses not merely the law, not merely physical force, but also the tools of thought to police our desire. The excluded middle, the bisexual-as-subject, threatens the binary economy of desire which ensures the continuation of the state of compulsory heterosexuality.

Such a critique may be seen to potentiate a reconfiguring of the subject. The reification of a bi identity certainly brings benefits — it facilitates the recognition of a common experience of oppression, facilitates coalition-building and combined political action. However there is the danger that this trend will generate yet another domesticated identity, another disciplined body. The rhizome sprouts roots.

MEMOIRS OF AN INVISIBLE

Two children are in a museum standing before a painting of Adam and Eve. One asks: 'Which one's the boy and which one's the girl?' The other replies: 'I can't tell — they haven't got their clothes on.'

I here attempt a close reading of particular but typical legal texts to uncover traces of arborescence. I engage in a mapping of the relations of power (*inter alia* 'gender') implied and rewritten by the texts, and investigate the ways in which the outsider view of the hetstream (in this case, deriving primarily from theorisation within the institutions of medicine and the law)

are deployed to rationalise and institutionalise radical binarity.

Legal writing regarding the situation of the t* before the law almost exclusively focuses on areas of law where gender is explicitly a relevant issue, for example in family law. Most of the case law and academic analysis in this area centres around what criteria the law should admit in the process of attempting to establish an individual's gender. Such analysis, certainly within the Australian academy, where t*s are perhaps relatively less visible and politicised than in, say, North America, fairly universally adopts a liberal, modernist rhetoric of 'humanity' and 'justice' in its advocacy of legal recognition of sex reassignment surgery (SRS); but in so doing, replicates medical constructions of t* identities as deviant and pitiable, of t*s as unfortunate victims, and reifies gender binarity ensuring the domestication of potentially threatening gaps in certain key texts of heteropatriarchy (we might call them canonical texts – I refer to modernist notions of the self and sexuality). Such writing entirely overlooks the possibility of any critique of the medical construction of gender crossover phenomena.

Typical of such writing is the article 'The Legal Status of a Sexually Reassigned Transsexual' by Margaret Otlowski (1990). She uncritically imports medical (master) discourse regarding gender and hence becomes complicit in depoliticising gender crossover. She speaks of the 'condition' of 'gender dysphoria', and describes the transsexual as one 'ha[ving] physical characteristics of one sex but who is psychologically a member of the *opposite* sex' (Otlowski 1990: 67, my italics) – at once asserting the opposition of gender, and of the 'psychological' and the 'biological' ontological orders. The plight of the transsexual is in her view a grave one: 'Transsexuality is believed to be primarily a psychological disorder but a disorder for which there is no known effective therapy ... [T]ranssexuals may resort to hormone treatment and ultimately even sex reassignment surgery ...' (Otlowski 1990: 67). Yet there is help at hand, thank to the miracle of scientific progress. Surgery can now enable 'quite impressive results [to] be achieved, often producing remarkably functional members of the opposite sex' (Otlowski 1990: 67). SRS is made to sound like open heart surgery – a vital, life-saving but stunningly complex and sophisticated medical procedure which only now, at the close of the twentieth century, do we have available to us.

Note also the silent spaces in her article – aside from reference in the course of her discussion of *R v Harris and McGuiness*, a case concerning a postop ts and a full time cd, there is no mention of the experience of non-transsexual-identifying t*s. Certainly, the traditional scientific and now commonsensical differentiation of the extreme fetishist transvestite and the gender dysphoric transsexual is left entirely unproblematised.

The article also appears to imply that transsexuals are inherently gender-

conservative.

This issue [of marriage] is probably the most critical aspect of the debate in respect of the legal recognition of post-operative transsexuals. The institution of marriage has traditionally been regarded as fundamental to our society and, undoubtedly, *holds special significance for transsexuals* who have undergone reassignment surgery, *since it is perceived as the ultimate recognition of their new sexual status* [my italics]. (Otlowski 1990: 67-8)

The subtext: post-operative transsexuals are *of their nature* geared to the promotion of patriarchy and its institutions. More of this later.

Representations of the crossed I - taxonomies of f->m crossover

F->m t*s experience erasure in the legal and scientific literature as well as within the queer and the (largely m->f dominated) t* communities. A range of commonsensical myths regarding the nature of female to male crossover at once inscribe heteropatriarchal notions of gender and sexuality and bound the voices of f->m t*s. I here take two examples.

The first is the Truth that f->m crossover is generally motivated by a desire (be it explicit or repressed) on the part of the t* to be 'taken seriously', which in the context of patriarchy means being taken for a man; and conversely, that crossing never has any erotic significance. The possibility of the female transvestite is denied. Finlay and Walters in *Sex Change* :

Transvestism is probably the most common disorder likely to be confused with transsexualism. The transvestite, who is always a biological male, obtains sexual gratification from dressing in clothing of the opposite sex. (Finlay & Walters 1988: 28)

And Dr. Robert Stoller, who's text *Sex and Gender* constitutes the obligatory cite on the issue:

[T]here are an extremely rare number of females who dress all the time as men, live as men, work as men – in fact, pass unrecognised in society as men. Are they not transvestites? No – and again one must be careful that one is not merely quibbling with words. These women are transsexuals, quite comparable to male transsexuals. They wish to be males, that is to have a body in every way male, and to live in all ways as a man does. They cannot stomach sexual relations with men; they are aroused only by women. Men's clothes

have no erotic value whatsoever; these people have no clothing fetish. (Stoller 1968: 1:195)

This refusal to admit of the possibility of non-SRS-oriented f->m crossing (ie. the existence of the non-transsexual f->m t*) serves to rewrite patriarchal myths concerning female sexuality – the outright rejection of the idea that a female might be sexually aroused by male clothing is derivative of the sexist notion that woman *qua* woman is at base an asexual/aerotic being (or at the least, innately less sexual than a man). Further, this taxonomy normalises and naturalises gender binarity – it is considered perfectly natural, given that men have greater status in a patriarchal culture, for women to seek to be men, and hence there is no need to problematise f->m crossover nor engage the critique of the gender dyad which such crossover may constitute.

As one might expect, this desire-blind construction of f->m crossing belies the voices of f->m t*s themselves. The text *Information for the Female-to-Male Crossdresser and Transsexual*, having quoted Stoller and others, observes:

It is any wonder that the female crossdresser hesitates to come forward? It would be quite a stigma to be known as the world's first and only woman who gets off on jockey shorts!8 (1985: 7)

A second Truth which contributes to f->m exclusion within the queer and t* communities themselves is that f->m t*s are 'less oppressed' than m->fs because there is less social stigma against women wearing male clothing than the reverse. While it is true that a certain degree of male dressing is socially acceptable, there is a clear boundary which f->ms may not cross, where mere 'tomboyishness' (in itself often sufficient to invite ridicule) flows into an artefactual masculinity that threatens gender boundaries, and at this point the crosser runs real risks of verbal and physical violence. Being able to wear boy's jeans does not solve all the problems of the f->m transsexual, any more than the wearing of female underwear beneath his masculine clothing will satisfy the m->f transsexual.

Further, to the degree that it is socially acceptable for women to don male garb, f->m crossover becomes invisible. Writes James Green, editor of the *FTM Newsletter* :

[T]his invisibility makes understanding and self-acceptance more difficult for the FTM because his desire to express himself as a man is confused with lesbian-feminist and/or androgynist politics. (Green 1994: 51-2)

Legal texts generally fail to make clear distinction between the situations of the m->f and the f->m, and to this extent these texts serve to reinscribe the

invisibility of f->m crossover generally, and certainly to erase non-transsexual f->m identities.

THE CARE OF THE SICK

Sex Change by H A Finlay and William Walters (1988) is one of Otlowski's primary references. The structure of this text betrays its politics. That the first half is written by a medical doctor (the expert opinion, providing the 'facts' of the case), and the second, by a legal academic (the 'law'), symbolises as it reenacts the hegemony of these twin master discourses.

The cover blurb of *Sex Change* chirps merrily:

There are people with a deep conviction that they were born into the wrong sex. In the past, they suffered considerable anguish and distress. Today a person can be given the appearance and most of the functions of a member of the opposite sex ... (Finlay & Walters 1988)

The text is similar to the Otlowski article in its representation of modern science as salvation – with the implicit if patently ludicrous suggestion that until this point in human history, ie. the advent of capital and with it, Science, t*s were doomed to lead tragic, dissolute, unfulfilled lives. Walters is entirely unambiguous in his representation of the transsexual as deviant and 'unfortunate'.

Fortunately, in most cases, gender identity conforms with biological sexual identity. In a few instances in which this does not occur, the condition of primary gender dysphoria or true transsexualism develops.⁹

This is an irreversible psychological condition ... The majority of subjects with primary gender dysphoria can only be successfully treated by gender reassignment involving hormonal therapy, breast surgery and surgical transformation of the genital organs ...

In the absence of adequate medical assistance, individuals with primary gender dysphoria may suffer mental depression leading to self-mutilation or suicide or at best may lead isolated and desperately unhappy lives punctuated by episodes of prostitution, drug addiction and criminal acts. (Finlay & Walters 1988: 35-6)

The second section of *Sex Change* is no less clear. 'The causes and symptoms of transsexuality are now much better understood.' A moot point. Finlay continues: 'In the more tolerant Western societies of today cases of transsexuality are allowed to come into the open' (Finlay & Walters 1988: 45). Again, a moot point. *Sex Change* is clearly situated within the modernist

metanarrative of grand scientific progress. It belies the reality that many societies may be seen to have encompassed crossing phenomena better (perhaps even more 'humanely') than our own, their ignorance of science and of the liberal virtue of tolerance notwithstanding. A standard example is the North American berdache, who appears to be a type of transgendered shaman.

[I]n many Native American religions the berdaches often have special ceremonial roles. [Genetically] male berdaches also do some of the work attributed to women and mix together much of the behaviour, dress, and social roles of women with those of men. They gain social prestige by their spiritual-intellectual or artistic contributions, as well as by their reputation for hard work and generosity. (Bullough & Bullough 1993: 3-4)

In contrasting their own 'liberal' and 'humane' perspectives with those of the judgments in cases such as *Corbett*, we are given to understand the writing of these academics to be in some way radical and oppositional. In fact it is a clear case of outsiders speaking Other's truth, in this case, via the deployment of the master discourse of science. The ostensibly radical nature of this writing (imagine writing 'about something like *that*') belies, as I observed above, the essentially direct translation and redeployment within the legal discursive space of scientific constructions of gender and identity. Such theory has real political outcomes, an issue I address below.

Phyllis Frye, transsexual, enrolled at the University of Houston Law Centre in 1978. The staff of forty spent around five hours discussing whether Phyllis should be allowed to attend. 'One thing that was clear was that most of [us] were not going to directly confront why it was that Phyllis shouldn't come to law school. So, we had to come up with reasons that she couldn't come. We didn't want to make her feel uncomfortable using a bathroom. So, for her sake, maybe we shouldn't let her into law school. ... But we came up with it: she had her own bathroom. That was how we resolved that. We built a Phyllis Frye bathroom.' (Aldeman 1994: 10)

FOUCAULT AND THE SPEECH OF THE MAD

In *Discipline and Punish*, Foucault (1977) traces the flows of power/knowledge that facilitated the production of the docile body, a body tailored to the technologies of the industrial revolution. He notes that in the

eighteenth century torture was supplanted by the death sentence, executed in an efficient and sanitary manner by the guillotine; entailing as a consequence a decreasing focus on the body and specifically the body surface (something essential to torture, which seeks to inscribe upon the body). Despite the rhetoric of progress towards more liberal and humane means of punishment during this period, we see a marked increase in the use(s) of punishment – surveillance of the body, of identity (citizens are required to carry papers) becomes continuous, where once such body policing was limited to those who had transgressed. In effect, a superficial humanitarianism has legitimated more efficient economies of death, and of bodily control – punishment is efficient discipline, omnipresent. It is at this point that crimes become indicative of a criminal nature. ‘Criminality’ is theorised, becomes the point of intervention (as distinct from the crime act itself). The goal of punishment becomes the restoration of the original/natural/uncriminal Self.¹⁰ In *Madness and Civilisation*, meanwhile, Foucault (1973) attempts to uncover an origin of the discipline of psychiatry by returning to the historical moment at which madness was an undifferentiated element of human experience. He charts the rise of a discursive regime and institutional practices which reified the rational self and set apart a mad self, an other, whose speech became unintelligible.¹¹

Sexuality may be seen to operate in a manner analogous to criminality, and the advent of a speech of the mad may be seen to mirror in certain respects the silencing function of medicine as master discourse.¹² The positing of a determinate sexuality requires a modern subject with a ‘deep self’, and enables the problematisation of this construct (which, invisibly, imports a range of modernist/master ontological assumptions and interpretations and politics) and the erasure of the boundary crossing acts themselves. It becomes possible, then, to and theorise this sexuality as an appropriate point of intervention. Further, Foucault’s tracing of modern madness prompts a reading of the t* experience as one of marginalisation and exclusion from the sites of theorisation of their experience. The voice of the t* is unintelligible, for it is a madness discourse. No sense can be made of a self ‘after’ gender or ‘after’ sexuality – these things are impossible to conceptualise. Rather than problematise crossing as a site of rupture in the coded text of gender, modern medicine has us problematise the individual’s ‘sexuality’, and read heirm as ‘gender dysphoric’, as a type of crosswiring in the modern Self. The moment of resistance is medicalised, and depoliticised. The disciplined body is foregrounded, and medical technologies and its discursive formations are deployed to ensure/encode compliance, ie. the production/engendering of the docile body.

Representations of the crossed II

We have already seen the way in which t*s are pathologised, portrayed as a class of sick persons requiring treatment. A second common representation is that of the man in women's clothing who is (simply and no more than) a man in women's clothing, or vice versa. In this representation, the potentially radically destabilising effect of crossing is evaded through the failure to problematise the *fact of cross-dressing itself*. This is a point Garber (1992) makes well and repeatedly in her fine work of cultural criticism, *Vested Interests*. She quotes in this context Sarduy's essay 'Writing/Transvestism'.

Transvestism ... is probably the best metaphor for what writing really is: ... not a woman under whose outward appearance a man must be hiding, a cosmetic mask which, when it falls, will reveal a beard, a rough hard face, but rather the very fact of transvestism itself ... the coexistence, in a single body, of masculine and feminine signifiers: the tension, the repulsion, the antagonism which is created between them. (Sarduy 1973: 33)

The transvestite then, does not signify. There is no anchored signified, no deep self lurking behind the gender mask. What modernist discursive regimes enforce is the erasure of the t* body. Medicine in fact *literally replaces the t* body*, reconfigures the signifiers to stave off boundary collapse.

Representations of the crossed III - taxonomies of m->f crossover

A further politically relevant characteristic of hetstream representations of crossing is the discrete classification of the m->f transvestite and the transsexual. Why does mainstream theory dichotomise 'transvestism' and 'transsexualism'? How does such an approach lie with the voices of crossers?

'Transvestism' is represented as sexual, moral, a perversion, an erotic event, the domain of confessors (be they priests or psychiatrists). Invisibility, that it remain in private, that it remain 'kinky', is primary. This enables the assertion that the transvestite's personal is not political ('I don't broadcast *my* sexual habits to the world; why do you have to tell me about yours?') 'Transsexualism', however and in contrast, is represented as real, material, a 'condition', 'curable' by an appropriate medical 'treatment'. This dichotomisation operates to atomise, individualise and consequently to depoliticise acts of crossing. Further, the base or locus of political action is dispersed and any potential for radical oppositional speech and communal political action is diffused.¹³

Quite aside from the political implications, such a construction of gender

crossover overlooks certain 'empirical' or, in Delgadoesque terminology, narrative realities. Witness, for example, the frequency of passing fantasies even among those not seeking nor planning to pursue in the future SRS; the popularity of hormones among some cds in the absence of any desire for the further step of SRS; the fact of full time cds; and most particularly, as we shall see, the fact that and the means by which t*s are themselves trained to write/read their biographies so as to generate acceptable selves.¹⁴

T*s, 'true transsexuals' and marriage rights

The lack of legal recognition of postop gender status clearly seriously negatively affects the quality of life of transsexuals. However the epistemology of gender uncritically imported by legal academics, and particularly the failure to recognise the fluidity of the various categories of gender-crossers noted above, may itself produce profoundly unjust outcomes. For example, both Finlay (1988) and Otlowski (1990) would appear to agree that only a 'full' or 'true transsexual' should be eligible for a putative Sex Reassignment Certificate (Finlay's term – such a certificate would enable legal marriage to a person of another gender and hence the accruing of the rights associated with a legal marriage). Yet why should, for example, a 24/7 cd who is on hormones, but has not undergone SRS, and has lived in what to all intents and purposes is a 'real' marriage, be denied these rights? 'Clothes maketh the woman/man.' Once the reified static categories of 'true transsexual' and 'mere transvestite' tumble, the distinctions psychiatrists and lawyers blithely assert become highly problematic.

It should perhaps be noted further that both Finlay and Otlowski consider that failure on the part of the postop ts to advise their prospective partner prior to the marriage of their genetic gender and their having undergone SRS should be grounds for nullity (Finlay & Walters 1988: 121; Otlowski 1990: 74). It is hard to see why they adopt such a position. It would appear that they consider that a partner must gift you your gender for it to be 'real' and recognised by the law. It is unclear why their desire for a 'liberal and humane approach' suddenly fails them at this point. To accept such a rule would be in effect to relegate postop tss to a second-class marriage, a special type of marriage in relation to which particular conditions apply.

T*ism and feminism - the colonisation of Women's spaces?

Some feminist theorists consider the advent of the transsexual/transvestite/crossdresser voice a threat to feminist theory and practice. Perhaps the most infamous example is Janice Raymond's (1980) text, *Transsexual Empire*. Therein she constructs 'transsexualism' as a tactic of late patriarchy to colonise women's speech and spaces, and to reinforce

sexist constructions of femininity: the woman as of her essence obsessed with appearance, with conspicuous consumption, with the pleasing of men, and so forth. She therefore sees the difficulties faced by those who understand themselves to be transsexual as epiphenomenal of the oppression of women – were it not for patriarchy, the transsexual would not exist. She further sees f->m transexuals as epiphenomenal of (m->f, theoretically prior) Transsexualism, they constituting a token of universality which facilitates the naturalisation and hence legitimisation of male colonisation.¹⁵ However, there is more at issue here than simply the biological.

Empires, of course, become empires, by spreading their dominion to include seemingly quite disparate territories. Thus it should not be surprising that transsexualism has spread into the feminist community. The transsexual empire initially colonized women's bodies. Now it has expanded to colonize feminist identification, culture, politics, and sexuality. (Raymond 1980: xx)

A little over a decade later Somer Brodribb attempts a tracing of masculine philosophy's colonisation of woman's voice, confirming Raymond's fears. She presents the gendercrosser as symbolic of/intrinsic to the postmodern:

Our knowledge is untranslatable and inaudible in mixed forums of masculine hegemony. Yet les hommes roses abstract and parade a feminist language and theory made textureless, without body, without speaking, female bodies. We serve as the raw matter for an unaltered analysis which has none of our values, we do not control this speech, insidious, neutralized, dishonest recognition of the female, spoken in a sexist practice. Yet it is we who are accused of purism and intransigence when we refuse absorption/invisibility of women's experience. We reject Foucault's power, Sartre's nothingness, Lévi-Strauss's end of the world, Lacan's fatal desire, Derrida's wizardry, Sade's creation through murder, Nietzsche's eternal return of the masculine o/One. We refuse all these transvestites of travesty.¹⁶ (Brodribb 1992: 146)

These two texts are expressions within the academy of a more general fear within feminist and lesbian-feminist circles that crossdressing males represent an invasion. This fear is manifest in such moments as the exclusion of lesbian transgens from the 1994 National Lesbian Conference in Brisbane (this after aggressive and violent debate in a plenary meeting on the first day of the conference; see *Lesbians on the Loose* Issue 56 Vol 5 No 8 (August

1994) p. 1, 4); the extended debate over the exclusion of lesbian-identified transgens from the Lesbian Space Project (see *Lesbians on the Loose* Issue 59 Vol 4 No 11 (November 1994) p. 7, 8); and the refusal mid-1993 by the New South Wales-based Gay and Lesbian Rights Lobby to include transgendered people in their overall charter for lobbying (see *Campaign* 207/June 93, p. 6).

Raymond's account and those of feminists like her are instantly recognisable as 'false-consciousness' accounts, which relegate crossing phenomena to secondary ontological status through positing a particular relation of dependence between patriarchy and gender crossover. They argue that crossover reifies gender boundaries in so far as it reasserts the univocality of the masculine ('Look, those transsexual models are even sexier than real women!') and delegitimises an oppositional feminine. Raymond and other t*-suspicious feminists share an unspoken assumption regarding gender crossover, namely that passing is the epistemic object, the Aristotelian *causa finalis*. This grounds a (teleo)logics of gender crossover as colonisation. Gender crossover is specifically and definitionally, on such a view, for the purpose of generating (what can pass as) women's bodies with men's minds(/socialisation/politics/voice/[insert metaphor of choice]).

However, contra the imag(inari)es in *Paris is Burning*, not all m->f t*s aspire to stereotypical models of femininity (masochism, sexual availability, conspicuous consumption, etc). If t*s are sexist, lust after consumables conspicuously, or profess a desire for a dominant man or a traditional patriarchal power-inequitable relationship, it is as consequence of the same dynamics of patriarchal power that enable some women and men to be and to think these things. Contra *Empire*, a t* feminist is not a logical impossibility.

The 'gender community' is a young community, and its philosophies reflect its adolescence. As more writing appears recounting t* 'underside' experiences of gender-ordered systems of power ('counterstories'), and as theory is developed to frame such experience,¹⁷ a politicisation of t* communities is potentiated – not (or not simply) mobilising politically to lobby legislatures for 'gender rights' and 'freedom' from discrimination, but further, the awakening of a feminist consciousness. Such an awakening would entail an awareness of and a commitment to a critical political/theoretical engagement with patriarchy, of the ways in which a putative 'transgender oppression' is interrelated with the oppression of women, an awareness of the manner in which the t* herself or himself is oppressed by patriarchy.

But in what ways specifically might t*s be said to be 'victims of patriarchy'? How might feminist theory be relevant to/aid in the theorisation of t*s experience?

M->f t*s and the art of auto-biography (the writing of one's Self)

'But surely looks aren't everything?'

There is significant pressure on the preop t*s to read her or his life history in accord with the prevailing medical model, for the quite practical reason that otherwise SRS may be denied. One stark illustration is provided us in a study which revealed that some doctors use their own sexual attraction to a candidate for SRS as a criterion for suitability (Kessler & McKenna 1978: 118). This idea that the preop must be 'sexy' or 'feminine' to be eligible for the 'treatment' ties in with the phenomenon of the cult of the beautiful crosser, or the transsexual supermodel (a sort of analogue of the ideal/Real Gay Man – the hypermasculine gay (who cannot possibly have AIDS, and is even more masculine than his het counterpart)).

In a manner analogous to the process I described earlier in the context of typical bi coming out experiences, the prevailing models of gender and sexuality themselves will generate a reading strategy (transparent, generally, to the audience) by means of which the individual engages the 'text' of her biography. Events will vacillate, pop in and out of awareness, accrue or shed significance (the power of signification), in accord with the needs of the body as produced by prevailing regimes of discipline. The product is the gender-conservatism so prevalent in t* subculture.

A quick flip through the pages of a typical m->f-oriented crosser magazine such as *Tapestry* provides ample illustration. The contents page of issue 67 (Spring 1994), lists articles such as: 'On being the perfect house guest' (p. 7), 'The masculine and the feminine mindset' ('Like sexual orientation, the masculine and the feminine mindset tend to be inborn. They cannot be changed and they are difficult to disguise.') (p. 34), and 'On being a woman' (p. 35) which relates that:

A woman is born to carry another human being inside her and to feed that other being from her body. Whether she ever has a child or not, she always has a sense of herself as the potential holder and nurturer of a new life. ... Metaphorically, babies are perpetually growing inside her, and she feeds them through her attention to what is happening, and nurtures them through her expression of this inner self to the outside world.

GENDER AND BODY FEMINISM(S)

A close reading of the text of gender engenders category quake. To attempt 'pure description' (as is envisioned by science, and as is required by the law (the court must have the facts)) is to script – that is, to engage in a creative, productive act. Within the postmodern moment, rather than seek a true language (for example, a t*'s speech, a voice from the outside), in the belief that the most oppressed is the most clear-sighted or possessed of the highest truth value, the task is to de-script, or trace the script, map how power is inscribed – on texts, surfaces, most especially, on the (post)modern body.

Gender crossover is a point of transparency, of slippage, functioning analogously in the context of 'gender' to bisexuality in the discourse of 'sexual orientation'. Marjorie Garber urges us to read/theorise the crossdresser as surface, and not as depth, that we look *at* it, and not *through* it (Garber 1992: 147-50). Elizabeth Grosz, meanwhile, in her attempt to rewrite the postmodern for feminism, draws the body as a multifaceted surface folded back on itself, a plane whose inscription produces the illusion of interiority (Grosz 1994: 116). The body is text, fictionalised through cultural narratives, to produce the docile body appropriate to the exigencies of the age. Dress, makeup, hairstyle – these things are then *part of the biology of the postmodern body*. And so the t* dressing up is a quite literal analogue of the muscle-mary's gym-work – they are both engaged in body building.

Medical/modernist political versus postmodern political discourses regarding t* phenomena may be understood then as a dispute over the boundaries of the body. Is the Real Body in the mind, or the heart, and is it contained by the skin, or, at the other extreme, is it coextensive with the social? Wherein, as Baudrillard might frame the question, resides the simulation, and wherein the real?

HETEROPHOBIA - FEAR OF DIFFERENCE IN OTHERSPACE

Gay and other non-het groups' interests do not always coincide. For example, gay assimilationists often argue crossdressers should stay at home in the closet rather than march at the head of rallies or have their names in the titles of organisations — at least 'at this early stage' — as out crossdressers harm the attempt to portray 'gay and lesbian lifestyles' as alternatives tolerable to the mainstream. One powerful recent example of lesbians and gays abandoning marginalised others within the queer community is the 1994 expulsion of the North American Man-Boy Love Association (NAMBLA) and two other similar organisations from ILGA.

I would contrast philosophically liberal lesbian and gay political praxis — which, grounded as it is in a discourse of minority rights and tolerance, is concerned to forward a 'we're just regular folks' message, marginalises and

silences groups such as bisexuals, t*s, those concerned with intergenerational relationships, sm players, and so forth — with a postmodern-aware so-called ‘micropolitical’, ‘in your face’ style of political action that some denote by the term ‘queer’.

The first and presently dominant model of lesbian/gay praxis is embodied in the Pride Day. The Pride March is a public celebration of lesbian/gay community, and, in the tradition of participatory democracy, an expression of a point of view. It focuses on identity (‘We’re here, we’re queer!’) and on being out (‘We’re here, we never sleep with other genders!’). Legal reform is the dominant mode of political action, to be achieved through letter writing campaigns, boycotts of companies with discriminatory practices, regular lobbying of politicians and organisations, and public education. The manifestation of this praxis within the academy, *inter alia*, in legal texts, is to emphasise sameness, to emphasise the commonalities between a putative ‘lesbian’ or (more often) ‘gay’ and a ‘het’ experience. This is only possible through the erasure of difference within our communities. The approach Fajer (1992) adopts embodies this paradigm.

The strategy adopted by the Tasmanian Gay and Lesbian Rights Group in the present dispute over Tasmania’s anti-same sex laws also aspires to this paradigm. This is reflected both in the Group’s exclusionary title, and in its framing of the dispute over the laws as ‘the gay law reform debate’ – this despite the fact of the laws directly affecting the lives and violating the human rights of bisexual Tasmanians, and perhaps less directly but certainly still importantly, also affecting the lives of Tasmanian lesbians and t*s (in so far as the laws contribute to an ongoing atmosphere of state-sanctioned hate and fear).¹⁸ We have yet to hear either the word ‘bisexual’ or the word ‘transsexual’ or similar mentioned in either the print or television media in the context of this debate. (In the specific case of bi rights, and an admission of the existence of bi Tasmanians would be to (i) threaten the oppositional dyad of het-homo, and may thereby be seen to lend credence to anti-queer representations of queer identity as mutable and subject to change. in schools, in counselling clinics, in the het bedroom, and (ii) to create dangerous divisions (or rather, make visible the already existent fissures) within queer discourse itself (I resist with difficulty referring to it as the ‘queer camp’)). Here in Tasmania, there is little need to assert that bis are closeted lesbians or gays; we can simply neglect to use the word.

One of the primary sites of conflict between the lesbian and gay leadership and other queer groups has been the naming of non-het political and cultural bodies. It is interesting to observe that the types of arguments marshalled to defend the phrase ‘Lesbian and Gay’ as all-inclusive are startlingly similar to arguments regularly deployed to exclude women from public discourse. Typical examples include the assertion that Lesbian and

Gay *means* everyone; or that appropriately inclusive sentences would be too long to be practical; or that inventing such labels is to be politically correct (and hence, presumably, not worth our time); and that we should stop wasting valuable time and effort indulging in silly and trivial word games and get back to really *doing* things.

The explicit rationale informing Mardi Gras, as the queer event presently most visible to the Australian hetstream, is outrageousness. That is, Mardi Gras is understood to represent a refusal (and a raucous one) to adopt normative heterosexist constructions of sexuality, morality and propriety. There is a certain transgressive value here, perhaps. However such a portrayal belies certain political realities, such as the ghettoisation of gay life (the symbol of which is Oxford Street). Deploying the liberal rhetoric of tolerance and the symbolics of Australian multiculturalism, 'the gays' are presented as just another ethnic minority, and Mardi Gras becomes a sort of ethnic festival. The threat of any seriously destabilising critique of heterosexist, sexist society, and of any deconstructive, destructive, critical power is neutralised.

The new fascists – the pink-shirts. Lesbian-/GaySpace must be made pure! 'Everybody wants to be a fascist.' Why? Because modern bodies need determinate Others if they are to stabilise boundaries and hence contain their organs.

Some have criticised Stonewall 25 — Stonewall having been adopted not only in North America but in Australia also as a type of genesis story — as having been appropriated by a mainstream liberal lesbian and gay movement keen to erase difference, and as having degenerated into a marketing opportunity for corporations interested in capturing the 'gay dollar' (see for example Julia (1994)). The broader question of the complicity between gay discursive hegemony and the condition of late capital is an interesting one. It might be said that what is inappropriate to late capital, is appropriated by late capital. Today, we can purchase our sexual identities; purchase our bodies. Culture collapses into postculture, and 'gay' literally becomes a question of style – we move from Tasmania to Oxford Street, we buy dance music, we toss forth Absolutely Fabulousisms. It would seem that the closet is much bigger than we had originally thought. Or perhaps, we have fled the closet, but are yet to exit the master's house.

(CONC/DE/IL)LUSIONS – Our future in the belly of the postmodern

Baudrillard Freud simulacrum Lacan surface t/Truth Derrida power gender Voice Stonewall fag flow cyborg Queer sm/bd praxis identity o/Other Nature space meaning Nietzsche genderfuck God telos u/Us polyvocality rhizome difference Foucault Haraway homosexual capitalism Butler

*Madonna flight History informatics domination science fiction(s)
GenreQuake hyperreal subaltern arborescence networks BwO HIV/AIDS
anatomy s/Self microfascist I integrated circuits inscription desire i*

LAW, LANGUAGE, LITERATURE

The postmodern suggests that both science and the law constitute language-work. The latter might come as small surprise, but the former is somewhat counterintuitive; and once we have retheorised science as politics, a new understanding of the lingual nature of law is potentiated. The lawyers' tools are words.

Within the postmodern moment and after the death of God, however, epistemologies conceiving of a truth in orbit of the Logos (word-made-flesh; literally in the case of the transsexual patient), collapse. What Deleuze and Guattari write of books might equally well be said of legal texts:

We will never ask what a book means, as signified or signifier; we will not look for anything to understand it. We will ask what it functions with, in connection with what other things it does or does not transmit intensities, in which other multiplicities its own are inserted and metamorphosed, and with what bodies without organs it makes its own converge. A book exists only through the outside and on the outside. (Deleuze & Guattari 1987: 4)

Gay groups lobbying their governments for anti-discrimination legislation will not bring liberation, if not only then importantly because 'gay' is the subservient term in a dyad which routes and maintains a master discourse. The het-homo opposition is a circuit.

The reading strategy Deleuze and Guattari propose in 'Rhizome' foregrounds the complicity of standard postmodern oppositional theory's core assumptions regarding identity and voice; and generates a theoretical space from which we may perhaps formulate new strategies of opposition.

How do we materially (as distinct from theoretically) deconstruct the subject? Mass outing? Mass genderfuck? The violent overthrow of the state? Succeeding from the political system (say, anarchist communes)? Exploiting the play in texts from within academic institutions? Establishing queer advocacy/consciousness-raising centres? Or, by appropriating/rewriting master texts (femme-butk lesbianism, smbd culture, queer porn, 'political drag', affirming marriage and child bearing/rearing as legitimate options for queer couples/families, utilising religious texts (prayers,

ceremonies, institutions) to celebrate and affirm queers in their various life events (birth, coming out, relationship, death)?

PLURALISM, POLYVOCALITY

One serious difficulty with a Matsudian postmodern pluralist jurisprudence is that, as we have seen in both the cases of t* and lesbian/gay communities, the underside voices are characterised by their saturation in the normative discursive paradigms of heteropatriarchy and late capital.

While the postmodern will not permit of a false-consciousness critique, it would seem inappropriate to seek to privilege the 'voice' of, say, the transsexual, when gender-conservatism is so obviously rife in that community.

'I am a woman trapped in a man's body.' The transsexual refrain invites us to peer into our souls, inspect (and so affirm) our interiority, on a search for our (hidden) truth, our (repressed) voice(s). Identity politics is new flesh for old bones. Contra: the interior as a function of the body. The technology of reassignment rewrites our innards as it replaces our organs. 'I am a body trapped in a man's woman.'

Polyvocal/counterstory jurisprudence (Delgado's (1989, 1990a, 1990b) work in the area of narrative jurisprudence, while not explicitly from the perspective of the postmodern, is a good example of this type of account) is flawed in so far as it overlooks a tendency to arborescence. It implicitly postulates, and quickly comes to depend upon, the determinate, situated Other; and belies, and may operate finally to erase, heterogeneity within Other spaces. There is an unspoken law that the suffering are relatively epistemologically pure – that suffering ennobles.

Delgado's scheme of narrative jurisprudence, and other polyvocal accounts, become problematic if the possibility of 'raw' experience to ground an Other voice is denied. There is no 'black experience', no 'gay experience', no 'transsexual experience' – at least, no such experience innocent of politics.

There must be more to a new oppositional jurisprudence than the cry for 'common-cause signifiers', like 'queer'.

What we need is a model of power, and hence a jurisprudence or theory of 'legal power', that is capable of mapping the processes by which identity and experience and voice are produced; an account which, in other words, incorporates a critique of vocal situation, which seeks to uproot Deleuze and Guattari's 'trees in our heads'. Hence a politics/micropolitics of generation –

of bodies, of subjects.

We must ask: How is the subject constituted/domained? How is the subject disrupted/ruptured? How is praxis complicit? and How is theory complicit?

NEW PROJECTS - INVERSION MECHANICS

For, if it is true that at the heart of power relations and as a permanent condition of their existence there is an insubordination and a certain essential obstinacy on the part of the principles of freedom, then *there is no relationship of power without the means of escape ...* [my italics] (Foucault 1982: 255)

One suggestion is that in and/or perversion of elements in a binary power hierarchy itself effects political/material deconstruction and facilitates reinscription. One example is afforded us in the work of Jonathan Dollimore.

Transgressive reinscription: a turning back upon something and a perverting of it typically if not exclusively through inversion and displacement ...

Fantasy may itself be a kind of transgressive reinscription, one presupposing a radical impurity in all identity, not excluding the transgressor's ... The very impurity that the radical humanist seeks to transcend, only despairingly to rediscover at the very centre of his or her being — this impurity, for the fantasies of the transgressive reinscription, is not the ground of its failure but the material upon which it works. (Dollimore 1991: 323, 324-5)

Derridians would observe that there is no power of opposition 'in' the Other, as consequence of the fact that it is only in the Other's location vis-a-vis the Thing that it may continue to exist. The displacement of the elements from their relative positions, specifically, the resiting of the subservient term, via exposure of the symbiotic relation pertaining between the dominant and the subservient, effects a destabilisation of the hierarchy.

Thus it may be argued that femme-butcht lesbianism, dominatrixes, lesbian dicks, and crossdressers and genderfuckers are material micropolitical practices that in the fact of their existence effect a deconstruction of master discourses regarding identity, specifically sex/gender and orientation/desire.

The best critiques of such a project come from radical feminism(s). It may be argued that the implication that both terms are, so to speak, potentially dominant, and the fact that relation entails domination is accepted

a priori, together serve to naturalise hierarchy and to obscure the fact that the subservient term (the Other) is rarely if ever (and only provisionally) in a dominant position (ie. being on top when you (a woman) come, or occasionally penetrating a male lover with a plastic dick, does not of itself entail the crumbling of patriarchy). Occasional instances of crossover perpetuate the myth of mobility, and simultaneously effect the colonisation of others' speech. Annalee Newitz:

When they dress up in other people's bodies and clothes, transgendered people and slummers [middle class Americans who cross racial and class boundaries to 'experience 'authentic' — and usually cheap — food, music and crafts produced by disadvantaged minority groups'] play at living in a world where social mobility is possible for everyone. Believing in the fantasy that all history is 'the same', they are happy to let most people remain oppressed as they have 'always' been. ... Moving around playfully within a social system is very different from dismantling the system itself. (Newitz 1993: 2,3)

I would also recall in this context the various feminist, race, and neo-Marxist theorists who seek to historicise the postmodern, observing the coincidence of the postmodern and late capital (with the decline of the nation state, the portability/mobility of capital, the increasing import of information technologies etc), and theorising the postmodern as a coded discourse primarily spoken to white men by other white men within the Western academy. See Jameson (1984), and the various feminists who have highlighted the way in which Foucault and others have been deployed within the postmodern moment, postmodernism itself constitutive of discursive formations marginalising potentially destabilising critique (for example, Brodribb (1992: 39-60)).

OF OTHER OTHERS

The notion of 'difference-in-itself' (a reversal of the Kantian Ding an Sich, so beloved of Nietzsche) constitutes at first sight a paradox. One possible reading: the gaylestream is a difference-in-itself, it being a discourse grounded in a determinate lesbian/gay identity, which exists in opposition — as the subservient, putatively potentially subversive symbiot (Other) — to a determinate het identity. In-itselfedness will always bound, directing the flows of desire/power, and will always screw the other Others.

How does oppositional theory sprout roots? Firstly, all oppression is

reduced to epiphenomena of the basic or primary master-slave dichotomy. For example: women are the workers of the family and will be liberated when workers are free; female sm bottoms are mistaken as to their desire and will no longer crave domination after women are freed; gays are oppressed because they threaten the boundaries of the feminine, and gays will no longer be oppressed once patriarchy fails; crossdressers are gays/lesbians who cannot accept their same-sex desire, and who will no longer need to rationalise their love through gender-crossover once the hierarchy falls. I recall here the words of Dennis Altman in his famous book, *Homosexual* :

My personal belief (hope?) is that transvestitism/sexism would disappear were our social norms not so repressive of men who exhibit 'feminine' traits or vice versa. Similarly I suspect sado-masochism is a product of a screwed-up sexuality that is also likely to pass. (Altman 1972: 136)

It is suggested by some that a politics of identity is a prerequisite for common political action, and that modernist discursive tools might safely be redeployed on a local scale provided one is cognisant of their constructed nature. Problem: this is precisely what has been claimed by some regarding the Tasmanian Gay and Lesbian Rights Group's approach to queer politics in Tasmania, but this claim does not impair its exclusionary discourse.

You may make a rupture, draw a line of flight, yet there is still a danger that you will reencounter organisations that re-stratify everything, formations that restore power to a signifier, attributions that reconstitute a subject — anything you like, from Oedipal resurgences to fascist concretions. Groups and individuals contain microfascisms just waiting to crystallize. (Deleuze & Guattari 1987: 9-10)

Such a project of 'local essentialism' becomes another rationalisation for inaction — the main game must be fought, and secondary modes of oppression will fade away after liberation. This reduction serves to screen discourse, and ensures that radical voices (those which might threaten the symbiotic relationship pertaining between the mainstream and the determinate Others) are silenced. For if all second, third and x-order modes of o- and repression will fall away with the successful resolution of the primary master-slave opposition, secondary/epiphenomenal voices or perspectives may safely be ignored.

OF RHIZOMES AND DISEMBODIED SELVES

A jurisprudence of resisting Difference

Deleuze's postmodern dividual: people are today in parts, in the

databanks of insurance firms, banks, government departments, and so forth. But in addition, our dividuals are increasingly projected, or perhaps more accurately, extended; for example across the Internet (via MUDs, MUSEs, MOOs, irc, telnet talkers, the world wide web). And some of these soft machines are expressly concerned with simulation, with the generation of artifactual bodies (bodies which are facts but also the products of art); themselves being literal as well as metaphorical 'texts', they give rise to virtual spaces where women are men and men are women, where, as the phrase goes, white is black and black is white.¹⁹

AIDS as antibody. HIV/AIDS has been termed the postmodern disease. In a manner similar to orientation crossover, and to gender crossover, it problematises binarity – for example and particularly the notion of the discrete, impermeable body. The question then becomes: What are the boundaries of the body?

The rhizome has no layers, no depth, and no stasis, but simply rather lines of flow, a proliferation of points of contact/context. Language, including particularly theory, may be understood to effect a temporary stabilisation of this flux or flow, which may have as consequence either stabilisation into arborescence, or a flowering into new sets of rhizomes. Upon the lines of flight, the flows of perverse desire, arborescence will crystallise, and microfascisms inevitably appear. The (re)solution is the reconnection of the rhizomes. We as modern individuals focus or write our Selves at moments or points of coherence/crystallisation/arborescence. But might we not posit a postmodern dividual who is capable of riding, if only for a time, the boundaries?

The t^* may be described/scripted as an authentic/originary Body without Organs (BwO). It is a true schizophrenic identity, a rhizome-self, perhaps a specific type of Deleuzean dividual. (The t^* is schizophrenic not in the sense of being pathological, nor of being possessed of a multiple self (as is the case with multiply personality disorder). Rather, the term schizophrenic denotes a special, 'other' way of interacting with and reading the body and the world, a distinct mode of experience, of which the dispersal of the modern Self, and the advent of the diasporal self, is constitutive. A Foucaultian mad self.)

The middle is by no means an average; on the contrary, it is where things pick up speed. Between things does not designate a localizable relation going from one thing to the other and back again, but a perpendicular direction, a transversal movement that sweeps one and the other away, a stream without beginning or end that undermines its banks and picks up speed in the middle.(Deleuze &

Guattari 1987: 25)

In contrast to centred (even polycentric) systems with hierarchical modes of communication and preestablished paths, the rhizome is an acentered, nonhierarchical, nonsignifying system without a General and without an organizing memory [inter alia collective or individual biography] or central automaton, defined solely by a circulation of states. What is at question in the rhizome is a relation to sexuality ... that is totally different from arborescent relation: all manner of 'becomings.' (Deleuze & Guattari 1987: 21)

Examples of such centred and polycentric systems include Rawlsian original position reasoning and the overlapping consensus, Matsudian multiple-consciousness as jurisprudential method, and Harding's feminist standpoint epistemology. Also included of course is the official mythology of the common law – the Platonic epistemology that is taught in law schools, of ratio and dicta, of the eternal Word and its instantiation. What might an account of the law deriving from a rhizome ontology look like? What would result were static notions of golden threads and underside voices discarded for a reading of the 'becomings', the 'in-processes', the plateau in the specific Deleuze and Guattarian sense of postoriginal/postterminal?

MUSINGS

There is no natural position, no Eden-state; power is everywhere. The subject, the coded identity, may only be subverted, from within, and cannot be (re)created ex nihilo. It may be argued that exclusion potentiates reconstruction/subversion, in the sense of the writing of new or different bodies, new or differing modes of subjectivity. The bi and the gendercrosser may (temporarily) constitute a privileged site of intervention into mainstream discourses regarding gender and orientation. This would not be to privilege any putative bisexual or t* 'voice', or even 'voices' – rather, we might adopt these fledgling subjects, these partly constituted but redolent-with-fissures bodies-in-process as points of theorisation. The crossdressers seams are showing.

NOTES

¹ The exclusive use of the masculine gender here is of course intentional.

² I use the term t* as a general provisional term to denote the range of crossing behaviours, including transvestitism (tv), crossdressing (cd), full time crossdressing (24/7), pre- and postop transsexualism (ts), and so forth.

³ This is not however to suggest that individuals who so identify proffer a perspective that is in some sense 'pure'. In fact, the mechanics of patriarchy are hard at work within

these identities and the communities which they facilitate/facilitate them. More on this later

⁴ Whether this difference is one of ontology or real experience is a moot point; as is of course the question whether such a distinction between ontology and 'real experience' is valid.

⁵ This despite an admission by way of footnote (no. 116, p. 535) that 'some lesbians object to the term 'gay' to refer to people of both genders'. He apparently considers that the use of the word gay serves to foreground the commonalities between the lesbian and the gay experience. I would argue that recognition of difference is a far higher priority, and that the use of the term gay is yet another example of masculine discursive hegemony.

⁶ 'Because society polarises sexual orientation, I include self-identified bisexuals with gay men and lesbians.' Well, that's a good reason. He continues: 'Generally speaking, similar kinds of discrimination from non-gay society await them when they make their bisexual interests known and so as to the issues that I address, their interests are similar' (Fajer 1992: 536). (The term 'bisexual interests' is an intriguing one. I am uncertain what he could mean by this. How exactly does one express a 'bisexual interest'—other than perhaps by expressing the desire to have sex with people of different genders simultaneously?)

⁷ I would not wish to be read as thereby claiming that what one might term a queer or a feminist science is impossible. It is simply (and literally) inconceivable, at this historical moment.

⁸ See also Marjorie Garber's (1992: 44-46) brief but interesting discussion of female fetishist erasure, upon which my discussion draws.

⁹ The precise implications of a 'true transsexualism' I address below.

¹⁰ For an extended and consequently rather more accurate overview of Foucault's thought in this area, see the extracts collected in Rabinow (1984: 169-239).

¹¹ Once more, see Rabinow (1984: 123-67).

¹² Foucault (1976) has much to say regarding the development of modern sexuality and its relation to 'scientific discursivity'. Particularly interesting is his notion of a technique of confession and his tracing of its incorporation into modern techniques of power (1976: 65-7). It would perhaps prove an interesting exercise were one to rewrite the politics of vocality from the perspective a kind of neo-Foucaultian 'will-to-confession'. Unfortunately there is not the space to do so here.

¹³ This is analogous to the situation of women, whose oppression also is individualised by moral systems and by the institutional supports of these systems (eg. the traditional 'private' family).

¹⁴ It should be noted that DSM IV recognises the possibility of tv/ts crossover: 302.3 'Transvestic Fetishism' may include 'Gender Dysphoria'. See *Diagnostic and Statistical Manual of Mental Disorders IV* (1994).

¹⁵ She argues that those who understand themselves to be f->m t*s should really identify as lesbian feminists. To which I might reply, some do.

¹⁶ Rather more illustrative, but too sizable to quote, are Brodribb (1992: 67-70, 127-8).

¹⁷ A theorisation of gender-as-power; this distinct from the use of crossing as metaphor for other social phenomena/discursive deployments/exercise of power/modes of representation or appropriation – an intriguing development within the academy which has borne ripe critical fruit, certainly, but is quite distinct from the type of political writing I am suggesting

here.

¹⁸ The term 'gay law reform' also overlooks the fact that anal intercourse between differently gendered persons is criminalised by the Tasmanian *Criminal Code* (1924).

¹⁹ Of course such virtual spaces are vulnerable to a 'slumming' critique — access to the technology that enables such virtual extension is limited by and large to businesses and universities in the 'developed world', and hence are primarily the domain of white males.

REFERENCES

- Aldeman R 1994 'Become Intolerant of all Intolerance!' *TV/TS Tapestry Journal* 67: 9
- Altman D 1972 *Homosexual: Oppression and Liberation* Angus and Robertson Sydney
- American Psychiatric Association 1994 *Diagnostic and Statistical Manual of Mental Disorders IV* American Psychiatric Association Washington DC
- Anon. 1985 *Information for the Female-to-Male Crossdresser and Transsexual* L. Sullivan San Francisco (2nd ed)
- Brodribb S 1992 *Nothing Mat(t)ers: A Feminist Critique of Postmodernism* Spinifex Press Victoria
- Bullough V L and Bullough B 1993 *Crossdressing, Sex, and Gender* University of Pennsylvania Press Philadelphia
- Cummings K 1992 *Katherine's Diary: The Story of a Transsexual* Mandarin Victoria
- Deleuze and Guattari 1987 *A Thousand Plateaus: Capitalism and Schizophrenia* Trans B Massumi University of Minnesota Press Minneapolis
- Delgado R 1989 'Storytelling for Oppositionists and Others: A Plea for Narrative' *Michigan Law Review* 87: 244
- 1990a 'Mindset and Metaphor' *Harvard Law Review* 103: 1872
- 1990b 'When a Story is Just a Story: Does Voice Really Matter?' *Virginia Law Review* 76: 95
- Dollimore J 1991 *Sexual Dissidence: Augustine to Wilde, Freud to Foucault* Clarendon Press Oxford
- Dreyfus H L and Rabinow P eds 1982 *Michel Foucault: Beyond Structuralism and Hermeneutics* Harvester Press Brighton Sussex
- Fajer M A 1992 'Can Two Real Men Eat Quiche Together? Storytelling, Gender-Role Stereotypes, and Legal Protection for Lesbians and Gay Men' *University of Miami Law Review* 46: 511
- Finlay H A and Walters W A W 1988 *Sex Change: Medical and Legal Aspects of Sex Reassignment* H A Finlay Tasmania

- Foucault 1973 *Madness and Civilization* Trans R Howard Vintage Books New York
- 1976 *The History of Sexuality: An Introduction* Trans R Hurley Penguin Books London
- 1977 *Discipline and Punish: The Birth of the Prison* Trans A Sheridan Allen Lane London
- 1982 'The Subject and Power' in Dreyfus et al 1982: 208
- Fox A 1991 'Development of a bisexual identity: Understanding the process' in Hutchins et al 1991: 31
- Garber M 1992 *Vested Interests: Cross-Dressing and Cultural Anxiety* Penguin Books London
- Green J 1994 'All Transsexuals Are Not Alike' *TV/TS Tapestry Journal* 67: 51
- Grosz E 1994 *Volatile Bodies: Towards a Corporeal Feminism* Allen & Unwin Sydney
- Harding S 1986 *The Science Question in Feminism* Cornell University Press Ithaca New
- hooks b 1990 'Postmodern Blackness' *Postmodern Culture* 1/1 electronic edition (URL: jefferson.village.virginia.edu/pmc/contents.all.html)
- Hutchins L and Kaahumanu L eds 1991 *Bi Any Other Name: Bisexual People Speak Out* Alyson Publications Boston
- Jameson F 1991 *Postmodernism, or, the Cultural Logic of Late Capitalism* Duke University Press Durham
- Julia 1994 'Radicalizing Stonewall 25: Gay Liberation, Queer Politics, and Anti-Authoritarianism' *Love and Rage* 5/1 electronic edition (lnr@blythe.org)
- Kessler S J and McKenna W 1978 *Gender: An Ethnomethodological Approach* John Wiley & Sons New York
- Krueger E 1991 'My Pet Peeves', in Hutchins et al 1991: 279
- Lorde A 1984 *Sister Outsider: Essays & Speeches by Audre Lorde* The Crossing Press New York
- Matsuda M J 1989 'When the First Quail Calls: Multiple Consciousness as Jurisprudential Method' *Women's Rights Law Reporter* 11: 7
- Newitz A 1993 'Gender Slumming' *Bad Subjects* 7 electronic edition
- Otlowski M 1990 'The Legal Status of a Sexually Reassigned Transsexual: *R v Harris and McGuinness* and Beyond' *Australian Law Journal* 64: 67
- Rabinow P ed 1984 *The Foucault Reader: An Introduction to Foucault's Thought* Penguin Books London
- Raymond J G 1980 *The Transsexual Empire: The Making of the She-Male* Beacon Press Boston
- Sarduy S 1973 'Writing/Transvestism' *Review* 9: 33
- Stoller R J 1968 *Sex and Gender: On the Development of Masculinity and*